

Harold Blattie

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EXHIBIT ~~7~~ 7

DATE 3-18-09

SB 434

Subject:

FW: Talking Points, Rodeo Liability Bill

SB 434

**From:** Kevin Gillen [mailto:kgillen@co.yellowstone.mt.gov]

**Sent:** Tuesday, March 24, 2009 7:53 AM

**To:** Harold Blattie

**Cc:** John Ostlund

**Subject:** Talking Points, Rodeo Liability Bill

Good Morning Harold. Commissioner Ostlund asked that I forward some talking points to you for today's hearing on this bill.

The bill is about assumption of the risk. The overall point worth making is that the time has come to view Montana counties as if they were non-profits when they engage in entertainment enterprises. I know Yellowstone County does not realize any real profit throughout the year with the events and acts that are booked for public consumption. Our MetraPark is, if we are extremely lucky, a breakeven proposition. We serve the community, a public service if you will. That was how our arena got built, and why the arena was built in the first place. I suspect most Montana counties operate their arenas at a loss or break even.

Counties are not asking for a free pass. This bill would not be a total grant of immunity, the counties would not be cloaked with immunity and the legislators need to know that the bill does not exempt counties from gross negligence.

The bill is simple and the language is plain. The purpose of the bill is to simply allow counties to avoid unnecessary litigation in those situations when persons who voluntarily participate in particular activities, those activities that have inherent danger associated with the activity, get injured or suffer damage.

The bill is necessary to decrease costs for counties (and taxpayers) and to decrease frivolous lawsuits.

Assumption of the risk only means that persons be responsible for their personal behavior. The bill will not bar suit if there is gross negligence on behalf of the county. People still have a remedy in those situation. The bill would however not cover EVERY situation, i.e. whereby a cowboy or a jockey is injured participating in an event, or when a spectator who chooses to sit too close to an event, receives injury the result of that behavior. Absent gross negligence, those situations should dictate immunity to the County.

As things stand now, Montana courts are loath to toss out personal injury lawsuits, there are exceptions but those situations are, as you know, few and far between. Courts would rather keep cases alive to settle or allow cases to go to a jury which creates needless litigation and drives cost of coverage sky hi. From where I sit, if you did not know any better, what we have now is almost strict liability on counties who rent space or sponsor events like rodeo and the like.

Points to drive home

The bill does not exempt counties or local governments from gross negligence, they are still responsible as the landowner for things in their control

People still have a remedy in those situations where the county or local government fall down on their duty to maintain their arenas.

Bill would not exempt coverage for run of the mill spectators.

If the legislators do not find this bill palatable, and want to protect folks from themselves, why not simply outlaw these types of events? You cannot have it both ways. The legislators need to understand that the activities counties seek relief from are dangerous. Does this session really want to witness the demise of Montana traditions such as rodeo and horse

racing? I believe without help, counties will curtail such events, look what is happening with horseracing throughout the state today.

They have the opportunity now to insure, with passage of this bill, these traditions will continue and thrive throughout the state of Montana, in the only venues that can host such events, while at the same time, they can fix costs or limit liability in those situations where the responsibility for injury or damage to those who choose to engage in dangerous activities remains where it should belong, with the person who chooses to participate in such activities.

Thanks Harold.